

JOURNAL OF THE HOUSE.

Wednesday, January 23, 2008.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Gracious God, we live each moment of the day in Your presence. We look to You for guidance as we address the items on today's calendar. As elected representatives, we try each day to understand and to serve the best interests of both our constituents and communities in this changing and turbulent world. Teach us to be open to the good suggestions and insights of all people as we join together in a common effort to make our changing neighborhoods safe, family-friendly and drug free. Help us to motivate all people, especially our children, to utilize their intellectual and natural gifts and talents for self-improvement and the good of society. May we and our constituents continue to have lofty personal ideals, a desire for excellence in all areas of endeavor, a recognition of personal responsibility in selecting choices and high ethical standards.

Grant Your blessings to the Speaker, the members and employees of the House of Representatives, and their families. Amen.

Pledge of
allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Messages from the Governor.

General
Appropriation
Bill.

A message from His Excellency the Governor submitting the annual budget of the Commonwealth for the fiscal year beginning July 1, 2008 (House, No. 2) was filed in the office of the Clerk on Wednesday, January 23.

The message was read; and it was referred, under Rule 30, with the accompanying schedules, to the committee on Ways and Means.

County
sheriffs.

A message from His Excellency the Governor recommending legislation relative to transferring county sheriffs to the Commonwealth (House, No. 4498) was filed in the office of the Clerk on Wednesday, January 23.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Judiciary. Sent to the Senate for concurrence.

Businesses,
tax
fairness.

A message from His Excellency the Governor recommending legislation relative to improving tax fairness and business competitiveness (House, No. 4499) was filed in the office of the Clerk on Wednesday, January 23.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Revenue. Sent to the Senate for concurrence.

Statement Concerning Representative Golden of Lowell.

A statement of Mr. Rogers of Norwood concerning Mr. Golden of Lowell, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Golden of Lowell, was not present in the House Chamber for today's sitting due to a long standing family commitment. Had he been present for the taking of the yeas and nays on passing to be engrossed the House Bill prohibiting the use of certain communication devices while operating a motor vehicle (House, No. 4477, amended) he would have voted in the affirmative. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Golden of
Lowell.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Rogers of Norwood concerning Mr. Naughton of Clinton, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Naughton of Clinton, will not be present in the House Chamber for today's sitting due to attending to issues regarding veteran's affairs. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Naughton of
Clinton.

Statement Concerning Representative Spellane of Worcester.

A statement of Mr. Rogers of Norwood concerning Mr. Spellane of Worcester, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Spellane of Worcester, will not be present in the House Chamber for today's sitting due to a long standing family commitment. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Spellane of
Worcester.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Fagan of Taunton) congratulating firefighter Paul Ferris on the occasion of his retirement;

Paul
Ferris.

Resolutions (filed by Representatives Kennedy of Brockton, Creedon of Brockton and Canavan of Brockton) congratulating Karen Faye Iolli on her retirement as co-founder and co-owner of the Ailano School of Cosmetology, Incorporated, in Brockton, Massachusetts;

Karen
Faye
Iolli.

Resolutions (filed by Mr. Nyman of Hanover) congratulating Charles Melvin Mason on his eightieth birthday; and

Charles Melvin
Mason.

Resolutions (filed by Mr. Smizik of Brookline) on the occasion of a community celebration honoring Dr. Yang Jianli;

Yang
Jianli.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Linsky of Natick, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Paper from the Senate.

Wrentham
elections.

A Bill providing for recall elections in the town of Wrentham (Senate, No. 2290) (on a petition) [Local Approval Received] [Representative Eldridge of Acton dissenting], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Recess.

Recess.

At seven minutes after eleven o'clock A.M., on motion of Mr. O'Flaherty of Chelsea (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-two minutes before two o'clock the House was called to order with the Speaker in the Chair.

Engrossed Bills.

Bill
enacted.

The engrossed Bill validating the actions taken at the September 24, 2007 town meeting held by the town of Burlington (see House bill printed in House, No. 4487) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the Speaker and sent to the Senate.

Engrossed bills

Bills
enacted.

Establishing the North Carver Water District (see Senate, No. 2308) (which originated in the Senate);

Exempting the positions of police chief and fire chief in the town of Burlington from the civil service law (see House, No. 2363); and

Authorizing the town of Burlington to issue 8 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and 2 additional licenses for the sale of wines and malt beverages to be drunk on the premises (see House, No. 4048);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the Speaker and sent to the Senate.

Orders of the Day.

Motor
vehicles,
communication
devices.

The House Bill prohibiting the use of certain communication devices while operating a motor vehicle (House, No. 4477) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Wagner of Chicopee asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance.

Quorum,
yea and nay
No. 246.

[See Yea and Nay No. 246 in Supplement.]

Therefore a quorum was present.

After remarks on the question on passing the bill to be engrossed (Mr. Petrolati of Ludlow being in the Chair), Mr. Wagner of Chicopee and other members of the House moved to amend it in section 1, in lines 14 to 18, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“‘Hands-free mobile telephone’, a hand-held mobile telephone that has an internal feature or function, or that is equipped with a hands-free accessory, whether or not permanently part of such hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a telephone call.”.

After remarks the amendment was adopted.

Mr. Wagner and other members of the House then moved to amend the bill in section 2, in lines 6 to 11, inclusive, by striking out the two sentences contained therein; and in section 5, in lines 5 to 10, inclusive, by striking out the two sentences contained therein.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Evangelidis of Holden; and on the roll call 114 members voted in the affirmative and 37 in the negative.

Amendments
adopted,
yea and nay
No. 247.

[See Yea and Nay No. 247 in Supplement.]

Therefore the amendments were adopted.

Mr. Wagner of Chicopee and other members of the House then moved to amend the bill [A]by adding at the end thereof the following section:

“SECTION 6. Notwithstanding any other general or special law to the contrary, a violation of this section shall not be considered a surchargeable motor vehicle offense pursuant to Section 113B of Chapter 175 of the General Laws.”.

Pending the question on adoption of the amendment, Messrs. Wagner and Linsky of Natick moved to amend it by striking out the text contained therein [at “A”] and inserting in place thereof the following: “in section 5, by adding the following paragraph:—

A violation of the seventh paragraph of section 8 and this section shall not be considered a surchargeable motor vehicle offense pursuant to section 113B of chapter 175.; and by adding at the end thereof the following section:—

SECTION 6. The last paragraph of section 24Y of chapter 90 of the General Laws shall become inoperative on July 1, 2009.”.

After remarks the further amendments were adopted, thus precluding a vote on the pending amendment.

Amendments
adopted,
yea and nay
No. 247.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding at the end thereof the following section:

“SECTION 7. The registrar of motor vehicles, in cooperation with the governor’s highway safety bureau, shall develop and implement a public awareness campaign for both junior and adult drivers which shall include, but not be limited to, information on the restrictions of mobile telephone and mobile electronic device use while operating a motor vehicle under section 8 and section 24Y of chapter 90 of the General Laws, information on the fines and punishments which may be imposed for violations of said chapter 90, and for adult drivers, information on the types of hands-free accessories or hands-free mobile telephones permitted for use while operating a motor vehicle. Said campaign shall commence no later than September 1, 2008.”

After remarks the amendment was adopted.

Mr. deMacedo of Plymouth then moved to amend the bill in section 5, in lines 4 and 5, by striking out the words “or a mobile telephone, unless said telephone is a hands-free mobile telephone”, in line 6, by striking out the words “mobile telephone”, and in line 18, by striking out the word “telephone” and inserting in place thereof the words “electronic device”.

Point of
order.

Mr. Wagner of Chicopee thereupon raised a point of order that the amendments offered by the gentleman from Plymouth were improperly before the House for the reason that portions of the bill identified in said amendments had been stricken by the previous amendment.

The Chair (Mr. Petrolati of Ludlow) state that the point of order was well taken; and the amendments were laid aside accordingly.

Mr. Hynes of Marshfield then moved to amend the bill by striking out section 3 and inserting in place thereof the following section:

“SECTION 3. Section 13 of said chapter 90, as so appearing, is hereby amended by striking out, in line 6, the words ‘or mobile telephone’ and inserting in place thereof the following words:— or amateur radio.”

The amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Wagner of Chicopee; and on the roll call 107 members voted in the affirmative and 47 in the negative.

[See Yea and Nay No. 248 in Supplement.]

Therefore the bill (House, No. 4477, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Donato of Medford being in the Chair,—
House bills

Relative to town meetings in the town of Orange (House, No. 4277) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the town of Somerset (House, No. 4402); and

Orange,
town
meetings.

Somerset.

Relative to an exchange of land in the town of Swansea (House, No. 4440);

Swansea,
land
exchange.

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at half past six o’clock P.M.

Next
sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at eleven minutes after four o’clock P.M., on motion of Mr. Rushing of Boston (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at half past six o’clock P.M., in an Informal Session.